

State of Utah  
Administrative Rule Analysis

## NOTICE OF PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-31c	Time filed:	
Changed to Admin. Code Ref. (R no.):			
1.	Agency: Commerce/Division of Occupational and Professional Licensing		
	Room no.:		
	Building: Heber M. Wells Building		
	Street address 1: 160 East 300 South		
	Street address 2:		
	City, state, zip: Salt Lake City UT 84111-2316		
	Mailing address 1: PO Box 146741		
	Mailing address 2:		
	City, state, zip: Salt Lake City UT 84114-6741		
	<b>Contact person(s):</b>		
	<b>Name:</b>	<b>Phone:</b>	<b>Fax:</b>
	Laura Poe	801-530-6789	801-530-6511
(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)			
2.	<b>Title of rule or section (catchline):</b>		
	Nurse Licensure Compact Rules		
3.	<b>Type of notice:</b>		
	New ____; Amendment XX; Repeal ____; Repeal and Reenact ____		
4.	<b>Purpose of the rule or reason for the change:</b>		
	<p>The Division is proposing amendments to this rule to reflect changes made by other Compact States and the model Nurse Licensure Compact Rule. The concepts covered in the proposed amendments have been policies with the Nurse Licensure Compact Administrators and hence have been followed for a number of years. Because the rule addresses the implementation of an interstate compact, all states that have adopted the compact language must also adopt the same rule. The proposed amendments reflect changes in the database and several years of experience implementing and maintaining the operation of the Compact. Also, clean-up changes were made to the term "rules" which is changed to "rule".</p>		
5.	<b>This change is a response to comments from the Administrative Rules Review Committee.</b>		
	Yes ____; No XX		
6.	<b>Summary of the rule change:</b>		

	Throughout the rule, the term "rules" has been replaced with "rule" where applicable. Section 102: Paragraph (2) is deleted as the phrase "current investigative information" is defined in the governing statute and does not need further clarification in this rule. Section 201: Amendments add military identification that can be used to verify primary state of residence. Clarifies how a person on a visa can be issued a license and declaration of state of residence. Clarifies how licenses are to be marked that do not have the multi-state practice privilege. Such licenses shall be issued as valid only in the state that issues the license. Section 302: Added paragraph (2) which provides a mechanism by which a license which has been revoked, suspended, surrendered or an application denied for cause, can only be issued a single state license until the action would have been cleared by the original state of licensure.									
7.	<b>Aggregate anticipated cost or savings to:</b> <b>A) State budget:</b> The Division will incur minimal costs of approximately \$50 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The additional language reflects concepts already in place with the Nurse Licensure Compact Administrators (NLCA) policy book. It was determined the language had a substantial impact on a person's ability to be licensed and to practice; therefore, the provisions belonged in the rule and not just policy. Any changes required in the Division as a result of the proposed amendments should be minimal. <b>B) Local government:</b> There should be little to no effect on local government. If a local government is already using nurses with a multistate practice privilege, the proposed amendments will not affect that relationship. <b>C) Small businesses (fewer than 50 employees) AND persons other than businesses:</b> The proposed amendments simply move policy statements into the rule which have been in place for a number of years. Adding the language to the rule will not affect the manner in which the NLCA functions or how a multistate license will be issued. Those individuals already affected by the Nurse Licensure Compact will not experience any change as this filing codifies existing policy into a rule.									
8.	<b>Compliance costs for affected persons</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency): There should be no compliance costs to anyone as a result of the proposed amendments because the language being added just moves policy into the rule where it appropriately belongs.									
9.	<b>Comments by the department head on the fiscal impact the rule may have on businesses:</b> This rule filing codifies existing Division policies under the Nurse Licensure Compact Rule. No fiscal impact to businesses is anticipated. Francine A. Giani. Executive Director									
10.	<b>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.</b> <b>State code or constitution citations (required):</b> Section 58-31c-103 and Subsection 58-1-106(1)(a)									
11.	<b>This rule adds, updates, or otherwise changes the following titles of materials incorporated by references</b> (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank):  									
12.	<b>The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i> . See Section 63-46a-5 and Rule R15-1 for more information.) <b>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</b> 05/01/2009 <b>B) A public hearing (optional) will be held:</b> <table border="1"> <tr> <td><b>on (mm/dd/yyyy):</b></td><td><b>at (time):</b></td><td><b>At (place):</b></td></tr> <tr> <td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td></tr> </table>	<b>on (mm/dd/yyyy):</b>	<b>at (time):</b>	<b>At (place):</b>						
<b>on (mm/dd/yyyy):</b>	<b>at (time):</b>	<b>At (place):</b>								

<b>13.</b>	<b>This rule change may become effective on (mm/dd/yyyy):</b>	05/08/2009	
	NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
<b>14.</b>	<b>Indexing information -- keywords</b> (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):		
	nurses	licensing	
<b>15.</b>	<b>Attach an RTF document containing the text of this rule change (filename):</b>	R156-31c.pro	
<b>To the agency:</b> Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
<b>AGENCY AUTHORIZATION</b>			
<b>Agency head or designee, and title:</b>	F. David Stanley, Director	<b>Date (mm/dd/yyyy):</b>	03/02/2009

**R156. Commerce, Occupational and Professional Licensing.**

**R156-31c. Nurse Licensure Compact Rule[s].**

**R156-31c-101. Title.**

Th[ese]is rule[s—are] is known as the "Nurse Licensure Compact Rule[s]".

**R156-31c-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 31c, as used in Title 58, Chapter 31c or th[ese]is rule[s]:

(1) "Board", as used in th[ese]is rule[s], means the party state's regulatory body responsible for issuing nurse licenses.

(2) [~~"Current significant investigative information", as used in these rules, is defined in Section 58-31c-102.~~

~~—(3)—~~"Information system", as used in th[ese]is rule[s], means the coordinated licensure information system as defined in Section 58-31c-102.

([4]3) "Primary state of residence", as used in th[ese]is rule[s], means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.

([5]4) "Public", as used in th[ese]is rule[s], means any individual or entity other than designated staff or representatives of party state Boards or the National Council of State Boards of Nursing, Inc.

**R156-31c-103. Authority - Purpose.**

Th[ese]is rule[s—are] is adopted by the Division under the authority of Subsection 58-1-106(1) to enable the Division to administer Title 58, Chapter 31c.

**R156-31c-201. Issuing a License.**

(1) As of July 1, 2005 no applicant for initial licensure will be issued a compact license granting a multi-state privilege to practice unless the applicant first obtains a passing score on the applicable NCLEX examination or any predecessor examination used for licensure.

(2) A nurse applying for a license in a home party state shall produce evidence of the nurse's primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include:

(a) driver's license with a home address;

(b) voter registration card displaying a home address;[  
or]

(c) federal income tax return declaring the primary state of residence;

(d) military form no. 2058 - state of legal residence certificate; or

(e) W-2 form from the United States government or any bureau, division or agency thereof indicating the declared state of residence.

(3) A nurse on a visa from another country applying for licensure in a party state may declare either the country of origin or the party state as the primary state of residence. If the foreign country is declared the primary state of residence, a single state license will be issued by the party state.

(4) A license issued by a party state is valid for practice in all other party states unless clearly designated as valid only in the state which issued the license.

(5) When a party state issues a license authorizing practice only in that state and not authorizing practice in other party states (i.e. a single state license), the license shall be clearly marked with words indicating that it is valid only in the state of issuance.

([3]6) A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multi-state privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed 30 days.

([4]7) The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the 30 day period in Subsection (2) shall be stayed until resolution of the pending investigation.

([5]8) The former home state license shall be expired and no longer valid upon the issuance of a new home state license.

([6]9) If a decision is made by the new home state denying licensure the new home state shall notify the former home state within ten business days and the former home state shall take action in accordance with that state's laws and rules.

**R156-31c-302. Limitations on Multi-state Licensure Privilege - Discipline.**

(1) Home state Boards shall include in all licensure disciplinary orders and stipulation agreements that limit practice or require monitoring the requirement that the licensee subject to said order or stipulation will agree to limit the licensee's practice to the home state during the pendency of the order or stipulation. This requirement may, in the alternative, allow the nurse to practice in other party states with prior written authorization from both the home state and such other party state Boards.

(2) An individual who had a license which was surrendered, revoked, suspended, or an application denied for cause in a prior state of residence may be issued a single state license in

a new primary state of residence until such time as the individual would be eligible for an unrestricted license by the prior state(s) of adverse action. Once eligible for licensure in the prior state, a multistate license may be issued.

**KEY: nurses, licensing**

**Date of Enactment or Last Substantive Amendment: [~~September 19, 2005~~]2009**

**Notice of Continuation: November 29, 2004**

**Authorizing, and Implemented or Interpreted Law: 58-31c-103; 58-1-106(1)(a)**